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Paper No. 5

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MAY 20 2002

OFFICE OF PETITIONS

In re Application of :
Amdahl :
Application No. 09/975,853 : DECISION GRANTING PETITION
Filed: October 12, 2001 :
Attorney Docket No. 6741.US.01 :
FOR: A METHOD OF DETERMINING THE :
INITIAL DOSE OF VITAMIN D COMPOUNDS :

This is a decision on the petition filed February 26, 2002 (certificate of mailing date February 5, 2002) to accord a filing date of October 12, 2001 to the above-identified application.

The application was deposited on October 12, 2001. However, on November 15, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on October 12, 2001 describes drawings containing Figures 1 and 2, but no drawings were filed on October 12, 2001.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the "Notice" mailed November 15, 2001 was mailed in error and is hereby withdrawn.

The application is entitled to a filing date of October 12, 2001. The petition is granted.

The proposed drawings of Figures 1 and 2 will be considered by the examiner for sufficiency of illustration and new matter. See MPEP 608.02.

Pursuant to petitioner's request, the \$130.00 petition fee will be credited to deposit account no. 01-0025.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 12, 2001, and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



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for Patent Examination Policy